

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Commission's Rules	)	
Regarding the Pricing of Unbundled	)	WC Docket No. 03-173
Network Elements and the Resale of Service	)	
by Incumbent Local Exchange Carriers	)	

**OPPOSITION**

BellSouth Corporation, on behalf of itself and its wholly owned subsidiaries (“BellSouth”), hereby submits the following Opposition to AT&T’s Motion To Require Incumbent Local Exchange Carriers To Respond To Data Requests (“Motion”).

In its Motion, AT&T contends that its data request is needed for an informed assessment of the incumbent local exchange carriers’ claims regarding their internal data. According to AT&T, BellSouth’s and other ILECs’ advocacy for a forward-looking methodology that reflects real-world attributes requires a demonstration that their “actual” data are reliable and complete to enable state regulators to establish UNE rates.

Before responding to AT&T’s assertions, it is essential to separate the chimera from the reality. BellSouth stands ready to provide the Commission with relevant information that would assist the Commission in understanding and evaluating BellSouth’s proposal. The information that will be most helpful will be identified as the Commission conducts its review and such information will be submitted as part of the record in this proceeding.<sup>1</sup> The adjudicatory

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<sup>1</sup> Thus, not only will the information have a context but also all parties will have access to the information and will have an opportunity to review, critique or otherwise comment.

approach that AT&T urges here is neither necessary nor efficient to prescribing a revised forward-looking methodology. From a process perspective, there is nothing unique about the instant proceeding that sets it apart from other complex rulemakings that the Commission has successfully conducted without approaching them as if they were adjudications.

There are good reasons for the Commission to reject AT&T's Motion. AT&T attempts to justify the data request as being a necessary prerequisite to determining the appropriate forward-looking methodology. As an initial matter, the determination of a methodology precedes the collection of data. It is the methodology and the modeling of that methodology that determines the data that must be collected. Contrary to AT&T's characterization, the immediate availability of data is not a precondition to determining a valid forward-looking methodology. In fact, the type of data, quantity of data points, and quality of the data may well vary from ILEC to ILEC. The methodology ultimately dictated by the Commission must provide for some degree of flexibility such that the approach fits all ILECs and allows for the maximum use of the data that is available to each ILEC.

Despite AT&T's arguments to the contrary, nothing in its data request is directed toward resolving the issue before the Commission – adoption of a revised forward-looking methodology. In its comments, BellSouth explained that a forward-looking methodology, reflective of real-world attributes, would provide cost-based prices for UNEs that accurately reflect the ILEC's cost of providing UNEs. Such a methodology would create a foundation that supports competition by creating pricing signals that promote rational economic decisions on the part of all industry participants until a more market-based pricing environment is achieved. Toward achievement of this end, BellSouth provided principles upon which a reformed methodology should be based.

AT&T's data request is neither related to BellSouth's proposal nor is the data necessary to address the core issue of adopting a methodology that reflects real-world attributes. For example, Data Request 1 asks for "an inventory of each piece of equipment and asset in the study area, by location," which includes the manufacturer, model number, acquisition date and install date. Such an inventory has no relevance to BellSouth's recommendations. At best, such a request could only remotely be linked to an extremely detailed reproduction cost methodology; however, BellSouth did not advocate such an approach, and even if it had done so, such a detailed inventory of all existing equipment would not be needed to evaluate a reproduction cost approach.

A similar infirmity is associated with Data Request 3. AT&T attempts to justify its request that BellSouth provide all of its planned network upgrades by study area and location over a 3-year, 5-year and any other planning period. While AT&T acknowledges that BellSouth did not advocate embedding a planning period into a long-run cost methodology, AT&T claims that BellSouth, through its expert declarations, acknowledged that a 3- to 5-year planning period could be used to develop long run costs. The twisted concept reflected in AT&T's data request has nothing to do with BellSouth's proposal. Use of planning information does not mean that construction budgets and planned network upgrades dictate the cost model. Instead, the planning period information could provide realistic design parameters in order to constrain the modeling process so that the model would not reflect a flash-cut to an optimized, hypothetical network, and thus the model would produce costs that more closely reflect the incumbent's (and not some non-existent, hypothetical carrier's) forward-looking costs.

AT&T's motion reflects a poorly disguised attempt to convert this proceeding from a review of the forward-looking methodology to a review of an ILEC's actual costs. Such a

review, as noted above, is only of value in some detailed type of reproduction cost study or embedded cost analysis, neither of which BellSouth has advocated. By diverting the Commission's attention away from addressing methodology questions and focusing on data evaluation, the Commission is cast into the endless debate that typically surrounds whatever data an ILEC proposes to use: whether the data is adequate, representative, and sufficient. The debate over data, however, amounts to little more than posturing. The simple fact of the matter is that the debate will not end here. Regardless of the methodology this Commission ultimately adopts, AT&T and others will carry the debate to the state commissions, who have the ultimate responsibility to set UNE rates based on whatever methodology the Commission establishes. If the Commission's focus can be moved away from adopting a new methodology, then the ultimate objective of AT&T's motion will be achieved – delay.

Once the Commission adopts a methodology, data will then be assembled to implement that methodology. A requirement to gather data is not unique to a methodology that incorporates real-world attributes. Indeed, such a requirement would apply equally to a methodology based on hypothetical network assumptions. AT&T just misses this point. Whether or not a given data set is immediately available is not the pivotal issue in determining the appropriate characteristics of a forward-looking methodology. The fact of the matter is that, as it has done in the past, BellSouth will do whatever is necessary to implement the methodology the Commission prescribes. In fact, BellSouth looks forward to participating with the Commission in the development of the methodology.

The Commission's task is not facilitated by the data request formulated by AT&T. Likewise, the Commission is not obstructed from completing its analysis without pursuing the approach advocated by AT&T. BellSouth is committed to cooperating with the Commission and

to providing information that the Commission deems relevant to its evaluation of BellSouth's proposals. Accordingly, the Commission should deny AT&T's Motion.

Respectfully submitted,

**BELLSOUTH CORPORATION**

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Date: March 26, 2004

**CERTIFICATE OF SERVICE**

I do hereby certify that I have this 26<sup>th</sup> day of March 2004 served the following parties to this action with a copy of the foregoing **OPPOSITION** by electronic filing and/or by placing a copy of the same in the United States Mail, addressed to the parties listed on the attached service list.

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